

VZCZCXRO6646
RR RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSR
DE RUEHVJ #0691/01 1621437
ZNY CCCCC ZZH
R 111437Z JUN 09
FM AMEMBASSY SARAJEVO
TO RUEHC/SECSTATE WASHDC 0310
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RHEHNSC/NSC WASHDC
RUEAIIA/CIA WASHINGTON DC
RHEFDIA/DIA WASHINGTON DC
RUEKJCS/JCS WASHINGTON DC
RUEKJCS/SECDEF WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 SARAJEVO 000691

SIPDIS

EUR/SCE FOR HYLAND, FOOKS, MCGUIRE; NSC FOR HELGERSON; OSD
FOR BEIN

E.O. 12958: DECL: 06/11/2019
TAGS: [PREL](#) [PGOV](#) [PINR](#) [KDEM](#) [BK](#)
SUBJECT: BOSNIA - DODIK RAISES THE STAKES ON RSNA
CONCLUSIONS

REF: A. SARAJEVO 631
[1](#)B. 08 SARAJEVO 362
[1](#)C. SARAJEVO 687

Classified By: Charge d, Affaires Judith Cefkin. Reasons 1.4 (b) and (d).

[1](#)1. (C) SUMMARY: HighRep Valentin Inzko,s June 11 deadline for the Republika Srpska National Assembly (RSNA) to withdraw its May 14 conclusions that declared 65 competency transfers from the entities to the state unconstitutional (Ref A) is upon us, and the issue remains unresolved. Both the Ambassador and Inzko have engaged intensively with RS PM Milorad Dodik and other RS officials. The Ambassador proposed to Dodik that the RSNA change the conclusions to a declaration, which would convey the same message but lack the legally binding force of conclusions. Dodik initially embraced this idea, but he later balked in a conversation with HighRep Inzko due to concern about the reaction of the opposition parties. Dodik then publicly declared that the RS would implement the conclusions irrespective of the HighRep,s actions. The RSNA is poised in the coming days to propose appending new conclusions to the existing document, rather than changing its format or text, which would mean that the conclusions would retain both their legal force and unconstructive message. END SUMMARY.

Inzko Delivers Ultimatum

[1](#)2. (C) Following HighRep Inzko,s declaration at the May 22 Steering Board Ambassadors (SBA) that the RSNA conclusions contravened the Dayton Accords (Ref A), Inzko sent a letter on May 25 to Dodik, RS President Rajko Kuzmanovic, RSNA Speaker Igor Radojicic, and RSNA Deputy Speakers Sefket Hafizovic and Nada Tesanovic. His letter condemned the conclusions and set a June 11 deadline for withdrawing them, after which Inzko would consider using the Bonn Powers to annul them himself.

Ambassador Counters Dodik

[1](#)3. (C) The Ambassador met with Dodik on June 4 to express concern about the conclusions, particularly the alleged number of transferred competencies, the legally binding nature of the conclusions, and the direct challenges they pose to the Dayton Accords. The conclusions, the Ambassador emphasized, would bring into question the ability of officials at the state level to make independent decisions, as they would be legally obliged to seek RSNA approval before voting on any measures the RS deemed a threat to its

competencies. Dodik replied that the conclusions were only a political statement with "no intended consequences." The Ambassador noted that if the RSNA had passed a declaration, rather than a conclusion -- as it did in March 2008 over the Kosovo independence issue (Ref B) -- the USG would disagree with the content of the declaration but would have no grounds to object on the form. This idea appeared to resonate somewhat with Dodik. The Ambassador stressed that the RSNA would either need to change the format so that the document does not have legal force or change the language to remove any challenges to the state's authority.

Inzko Softens His Approach

¶4. (C) After initially refusing invitations to meet and "negotiate" the conclusions with RS representatives in Banja Luka, HighRep Inzko and his staff met on June 8 in Banja Luka with Dodik and his staff. Inzko and Dodik came to an understanding on a possible way out of the impasse, wherein the RSNA published the conclusions, the HighRep used the Bonn Powers to suspend them until the Court ruled on their compliance with Dayton, and then the Court would have the final say.

Dodik Spouts Visceral Warning

¶5. (C) Following his seemingly conciliatory tone with the Ambassador and the HighRep, Dodik -- angry about Inzko's June 8 decision to remove State Investigation and Protection

SARAJEVO 00000691 002 OF 002

Agency (SIPA) official Jovicic, a close associate of Dodik, for illegal surveillance of international community officials (Ref C) -- declared publicly on June 9 that if the HighRep invoked the Bonn Powers to annul the RSNA conclusions, the RSNA would implement the conclusions anyway. He added that when the HighRep "finally leaves," the RS will enact the conclusions all over again. He further noted that the RSNA could convert the conclusions to a declaration only with the consent of all RSNA parties. A calmer Dodik told us later that day, though, that Party of Democratic Progress (PDP) chairman Mladen Ivanic and Serb Democratic Party (SDS) chairman Mladen Bosic had told him that they were not amenable to changing the conclusions to a declaration but that SNSD would support the change. (Note: Ivanic told the Ambassador on June 10 that PDP supported the idea of a declaration in principle but "was not inclined to let Dodik off the hook." End Note.)

RSNA Steps Back (But Not Really)

¶6. (C) On June 10, Radojicic told us of a plan to append new conclusions to the existing document. The new conclusions would:

-- Reaffirm the RSNA's position that the existing conclusions are not anti-Dayton nor unconstitutional;

-- Stress the RSNA's absolute commitment to the Dayton Accords and EU membership; and

-- Express the RSNA's readiness to cooperate with the IC representatives in Bosnia, based on relevant provisions of Dayton, and invite the HighRep to come to the RS at any time to discuss any "potential misunderstandings" arising from the existing conclusions.

Next Steps

¶7. (C) The Ambassador called Dodik and Radojicic on June 10 to stress that the addendum to the existing conclusions would not satisfy our conditions and ask that these new conclusions

not be passed. Dodik gave a noncommittal response, but the RSNA ultimately agreed to place the item -- originally near the top of the agenda for the June 10 session -- at the bottom of the list, and Radojicic told the HighRep that it could take up to 20 days for the RSNA to address the issue. In the meantime, Dodik has reiterated to the Ambassador that he would be willing to support changing the conclusions to a declaration but is not inclined to "override the opposition." (Note: Changing the conclusions to a declaration would require a simple majority -- 42 votes -- in the RSNA. SNSD has 41 votes. End Note.) HighRep Inzko told the Ambassador on June 10 that he would still support suspending the conclusions and referring them to the Constitutional Court to determine whether they contravene Dayton.

Comment

18. (C) Dodik and the RS have ratcheted up the stakes in their challenge to the HighRep (and to us). The most acceptable resolution, in our view, would be for the RSNA to transform the conclusions into a non-binding declaration. Allowing the Constitutional Court the final say on the conclusions -- as HighRep Inzko proposed -- would be problematic, as it would set a precedent of narrowing the powers of the HighRep, even though OHR,s legal team tells us that taking this approach in this case would not subject any other Bonn Powers decisions to Constitutional Court review. Simply appending new conclusions to the existing document would clearly be unacceptable, as the conclusions would remain legally binding on the RSNA and on the RS delegates in the state Parliament. As we try to close out "five plus two" and hopefully begin constitutional reform talks, such a blow to IC credibility would severely weaken our hand. Furthermore, allowing this direct challenge to Dayton to go unchecked would call into question Bosnia,s core functionality and stability. We recommend engaging the Europeans to join us in insisting on a credible solution, including -- if necessary -- supporting Inzko,s use of the Bonn Powers.

CEFKIN